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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,312	07/14/2003	Louis Giordano	29257.04001	6299
24024	7590	07/12/2004	EXAMINER	
CALFEE HALTER & GRISWOLD, LLP 800 SUPERIOR AVENUE SUITE 1400 CLEVELAND, OH 44114				NICHOLSON, ERIC K
		ART UNIT		PAPER NUMBER
		3679		

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/619,312	LOUIS GIORDANO	
	Examiner	Art Unit	
	Eric K Nicholson	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 May 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2-19 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 2-19 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2,7 and 10-19 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. patent 4,712,812 to Weir, III. The Weir device illustrates applicants invention in fig. 14 with a apparatus able to test the fluid tightness of pipes of different sizes comprising a new one piece main body 19 having a tubular wall with a chamber 27 that has at least two internally threaded wall portions 90,91 each one of said internally threaded wall portions having a different diameter (see fig. 14) whereby the main body can be screwed separately into at least two different diameter externally threaded pipes in a fluid tight manner. The one piece main body having a head portion connected with the tubular wall a head portion having a gauge port 92 in fluid communication with the chamber with a head portion and having a test fluid inlet port 90 located at the opposite end of the other threaded inlet 90 and in fluid communication with the chamber 27 and the gauge port 92. The gauge port 92 has the same configuration as a test inlet port 90 whereby a test gauge can be connected in either the gauge port for the fluid inlet port and a fluid supply line can be connected in either the fluid inlet port for the gauge port. As to claim 7 which

claims that the wall has three internally threaded wall portions each having a different diameter whereby the main body can be screwed separately onto three different diameter externally threaded pipes in a fluid tight manner see column 10 which states that "*additional sleeves or threads of various diameter in the respective universal fittings further reduces the number of fittings that are required for any particular piping job*". This statement shows that the main body can include three internally threaded wall portions. As to claims 13,15,16,17 and 19 one inch and one quarter inch threaded ports are widespread standard sizes in the plumbing art and do not patentably distinguish over the prior art of Weir which indicates use in the plumbing field.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 4,712,812 to Weir, III in view of U.S. patent 3,760,842 to Mikiya.

As noted above the Weir, III device include all the features of the present invention however as to claims 3 and 9 it does not disclose a third port connected in fluid communication with the chamber and the gauge port and the fluid inlet port where in the third port would have the same configuration as the test inlet port and the gauge port. As to claim 4 Weir, III does not disclose a lead valve connected to the chamber whereby a heightened being tested can be bleed without the disconnecting the fluid inlet member from the fluid inlet port. Mikiya discloses that it is known in the art to provide a *similar* type coupling with multiple ports 12 for an additional devices as needed and wherein one of those devices is a bleed or drain valve 53 to drain fluid or relieve pressure from the fitting body without having to remove the fluid inlet line. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide additional ports to the fitting body 19 of Weir, III such as taught by the multiple ports 12 of Mikiya, in order to provide an additional ports for devices as needed and further since it has been held that mere duplication of essential working parts of a device involves only routine skill in the art. Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a bleed valve such as drain valve 53 as taught by Mikiya to the fitting body 19 of Weir, III to drain fluid or relieve pressure from the fitting body without having to remove the fluid inlet line.

Claims 5,6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 4,712,812 to Weir, III in view of U.S. patent 2,956,737 to Hager.

As noted above the Weir, III device include all the features of the present invention however as to claims 5 and 6 it does not disclose a test fluid inlet member of having a manually

engageable shutoff valve for selectively blocking for enabling fluid flow from the test fluid inlet member nor further having a hand pump engageable in the fluid test inlet port for supplying test fluid at low-pressure above atmospheric to the chamber and thereby to a pipe being tested. Hager discloses that it is known in the art to provide a hand pump 14 with a check valve 19 to and inlet port 12 to supply test fluid at low-pressure above atmospheric to the tank 11. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the fluid inlet port 90 of Weir, III with the hand pump 14 and check valve 19 assembly, in order provide a simple and easy way of providing pressure to the threaded fitting to pressurize pipes threaded there to and check any threaded connections.

Claim 8 is rejected under 35 U.S.C. § 103 as being unpatentable over U.S. patent 4,712,812 to Weir, III in view of U.S. patent 3,760,842 to Mikiya as applied to claims 3,4,9 above, and further in view of U.S. patent 2,956,737 to Hager. As noted above the Weir, III and Mikiya combination includes all the features of the present invention however as to claim 8 it does not disclose a test fluid inlet member of having a manually engageable shutoff valve for selectively blocking for enabling fluid flow from the test fluid inlet member nor further having a hand pump engageable in the fluid test inlet port for supplying test fluid at low-pressure above atmospheric to the chamber and thereby to a pipe being tested. Hager discloses that it is known in the art to provide a hand pump 14 with a check valve 19 to and inlet port 12 to supply test fluid at low-pressure above atmospheric to the tank 11. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the fluid inlet port 90 of the Weir, III and Mikiya combination with the hand pump 14 and check valve 19

assembly, in order provide a simple and easy way of providing pressure to the threaded fitting to pressurize pipes threaded there to and check any threaded connections.

Conclusion

Applicant's remarks have been considered however are not deemed to be persuasive. Applicant argues that Weir does not show a test apparatus for testing the fluid tightness of pipes of different diameters. The examiner disagrees, first the threaded fitting of Weir inherently tests the fluid tightness of the pipes which connect to it via the threads, any leaks would naturally be detected. Second, applicant implies some special meaning to "test apparatus" when structurally the present invention and the device of Weir are the same. There is no explanation as to how defining an identical fitting as a "test apparatus" imparts patentability to the present invention. Clearly they are both "apparatus" and both intended to connect pipes for fluid flow under pressure. In fact column 1 of Weir makes it clear that the fitting of Weir can be used in water lines in office building and residences both of which are required to be pressure tested by code before being put into use, thus further indicating the Weir device's use in a test environment. Applicant's comment that "It is a leap of logic to think that" is not appreciated given that applicant provides no reasonable explanation as to how using the present invention as a test for fluid pressure characterizes the present invention as deserving a patent when the identical structure is known as evidenced by Weir. Applicant's argument amounts to how the device it being used and such intended use does not patenably define over the fitting of Weir. Applicant argues the combination of Weir and Mikiya stating that there is "no motivation to combine" the two references and further that the two branched fittings are "not even analogous art". The examiner

again disagrees with the applicant here. Clearly the two patents are analogous, both are classified in the same class, both relate to manifolds for branching fluid flow. See column 10, lines 1-8 of Weir which discusses the manifold can be used for “gas and water service, as well as other service”. The Mikiya manifold is stated to be used for compressed air. Applicant states on page 2 of the remarks that the prior art is simply not involved with testing (other than the basic concept known to everyone of putting a gauge on a pipe to see what the pressure is). This is enough motivation that is required to make the combination. What has applicant claimed or even argued defines a test apparatus over the basis concept of putting a gauge on a pipe to see what the pressure is? It is the examiner’s position that it is not a “leap of logic”, as applicant argues, to put a pressure gauge on a threaded port or for that matter a shut off valve such as taught by Hager. Applicant appears to be arguing a lack of skill rather than skill of one of ordinary skill in the art for clearly one of ordinary skill in the art knows to pressure test fluid lines and knows where and when to use shut off valves as mandated by plumbing codes. Applicant’s argument that Weir does not teach three internally threaded wall portions and three ports in addition to fluid communication with the chamber is not understood. As was pointed out in the office action, Weir in column 10 states that *“additional sleeves or threads of various diameter in the respective universal fittings further reduces the number of fittings that are required for any particular piping job”*. This statement shows that the main body can include three internally threaded wall portions and is further evidenced by figure 11 which unquestionably shows three internally threaded wall portions on a cap.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

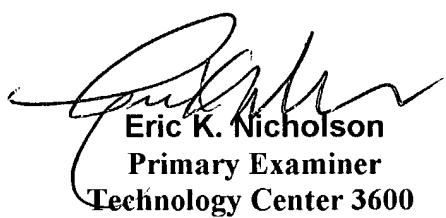
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Nicholson whose telephone number is (703) 308-0829. The examiner can normally be reached on Tuesdays thru Fridays from 7:30 to 6:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for Technology Center 3600 is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center receptionist whose telephone number is (703) 308-1113.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

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